

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AEGEAN BUNKERING (USA) LLC,  
Plaintiff,

14-cv-9447(KBF)

v.

MT AMAZON (IMO 9476654), its engines,  
tackle and apparel, Certain bunkers FO 500 CST  
aboard or loaded aboard the M/T AMAZON,  
Defendants *in rem*,

BERGEN BUNKERS, AS,  
JASPER EXPORTING LTD.,  
Defendants *quasi in rem*,  
and

The Master of the M/T AMAZON,  
Garnishee,

JASPER EXPORTING LTD.,  
Third-Party Interpleader Plaintiff,

v.

O.W. BUNKER MALTA, LTD., O.W. BUNKER  
USA, INC., and ING BANK N.V.,  
Third-Party Interpleader Defendants.

**STIPULATION**

WHEREAS, in October 2014, the M/T *Amazon* (the "Vessel") was supplied with 446 metric tons of fuel oil at Marcus Hook, Pennsylvania (the "Bunker Delivery");

WHEREAS, Plaintiff Aegean Bunkering (USA) LLC ("Aegean") filed this vessel arrest action asserting that it was the physical supplier of the Bunker Delivery and possessed a maritime lien against the Vessel for the Bunker Delivery for which Aegean invoiced the total amount of \$981,708.20 (Dkt. 1);

WHEREAS, in response to the actual arrest of the Vessel, on April 7, 2015 Jasper Exporting Ltd. ("Jasper"), as owner of the Vessel, deposited security in the amount of \$1,150,000.00 into the Registry of the Court pursuant to the March 31, 2015 Order for Deposit (Dkt. 41) issued by Judge Forrest;

WHEREAS, Jasper deposited the further sum of \$58,902.49 into the Registry of the Court pursuant to the March 31, 2015 Order for Deposit (the two tranches collectively herein referenced as the "Security Deposit"), which security remains in place;

WHEREAS, in response to Aegean's Complaint, Jasper filed an Amended Answer with Counterclaim and Third-Party Complaint seeking interpleader and declaratory relief, in which it named as interpleader defendants, *inter alia*, Plaintiff Aegean and Third-Party Defendant ING Bank N.V. ("ING") (Dkt. 83);

WHEREAS, ING appeared as Security Agent to enforce its asserted rights as assignee of O.W. Bunker Malta Ltd. ("O.W. Malta"), which had contracted with Jasper's agent Dynacom Tankers Management Ltd. ("Dynacom") for the Bunker Delivery and which invoiced Dynacom a total of \$994,313.42 for the Bunker Delivery;

WHEREAS, ING alleged that it was entitled to be paid for the Bunker Delivery because O.W. Malta is the only party who holds a maritime lien in the case (Dkt. 87 ¶ 9) and asserted that, if and only to the extent that the Court asserted jurisdiction over ING's contract claims, as to which ING has expressly reserved its rights, Jasper was obligated to pay ING pursuant to the terms of the contract between Dynacom and O.W. Malta;

WHEREAS, on August 25, 2016, the Court entered summary judgment dismissing Aegean's complaint in its entirety.

NOW considering the foregoing and the pleadings and proceedings had herein, ING and Jasper hereby stipulate and agree as follows:

1. Under the circumstances, judgment can be entered declaring that ING is entitled to be paid for the Bunker Delivery in the total amount of the O.W. Malta invoice (\$994,313.42) with interest to be calculated as reflected in the parties' confidential agreement, dated December 19, 2016 (the "Settlement Agreement");

2. Pending the resolution of any appeal(s) filed by Plaintiff Aegean, if any, ING and Jasper agree that enforcement of the judgment described in paragraph 1 and a release of the security posted by Jasper in connection with these proceedings are stayed;

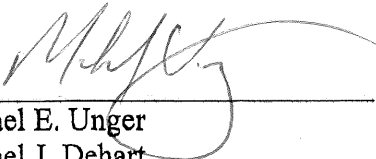
3. If the District Court's opinion on Aegean's claims is reversed or vacated on final appeal, then the judgment described in paragraph 1 herein shall be vacated. The parties reserve all rights with respect to the claims to be decided in that event, including the appropriate jurisdiction therefore, and any rights, claims or defenses that may arise in the event of a reversal or vacatur upon final appeal.

4. Jasper and ING agree to the entry of final judgment in the following form, which the parties respectfully request be endorsed by the Court:

**FINAL JUDGMENT**

For the reasons set forth in the Stipulation entered between ING Bank N.V. ("ING") and Jasper Exporting Ltd. ("Jasper") (Exhibit 1, Dkt. 161), judgment is hereby entered in ING's favor in the total amount of \$994,313.42 with interest to run per the Settlement Agreement between ING and Jasper.

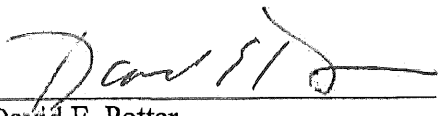
*Dated - December 19, 2016*



---

Michael E. Unger  
Michael J. Dehart  
FREEHILL HOGAN & MAHAR, LLP  
80 Pine Street  
New York, NY 10005  
(212) 425-1900 / (212) 425-1901 (Fax)

*Attorneys for Jasper Exporting Ltd.*



---

David E. Potter  
Anna Pia Nicolas  
LAZARE POTTER & GIACOVAS LLP  
950 Third Avenue  
New York, New York 10022

*Attorneys for ING Bank N.V., as Security Agent*

**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that on <sup>December 19</sup>~~November~~, 2016, a true and correct copy of the captioned document was served via ECF upon the following counsel:

J. Stephen Simms  
Marios J. Monopolis  
Simms Showers LLP  
201 International Circle, Suite 250  
Hunt Valley, Maryland 21030

*Attorneys for Plaintiff Aegean Bunkering  
(USA) LLC*

David E. Potter  
Ana Pia Nicolas  
Lazare Potter & Giacovas LLP  
875 Third Avenue, 28<sup>th</sup> Floor  
New York, New York 10022

*Attorneys for Third-Party Defendant ING Bank  
N.V.*

/s/ Michael E. Unger

\_\_\_\_\_  
Michael E. Unger